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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/435,774	11/08/1999	MASAKAZU MATSUGU	35.C14008	5670

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EXAMINER	
WILSON, JACQUELINE B	

ART UNIT	PAPER NUMBER
2612	

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/435,774	Applicant(s) MATSUGU ET AL.	
	Examiner Jacqueline Wilson	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *three* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *30 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-60* is/are pending in the application.

4a) Of the above claim(s) *15-23,38-46 and 48* is/are withdrawn from consideration.

5)☒ Claim(s) *6,7,10,12-14,29,30,33,35-37 and 49-60* is/are allowed.

6)☒ Claim(s) *1-5,8,9,11,24-28,31,32,34 and 47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, **"The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.**

Response to Arguments

1. Applicant's arguments filed 06/30/04 have been fully considered but they are not persuasive.

The applicant argues that the prior art fails to teach correcting the first image based on photographing condition information of the first image. The examiner disagrees. Rybczynski teaches calculating four storage matrices T, S, L, and R. These correction matrices accounts for transparency effects, illumination and shadows as well as chromatic influences of the image (col. 9, lines 38+). Matrix L allows to reproduce the illuminations visible on the monochrome background of the foreground image (FG) caused by reflections at the object (col. 10, lines 20+). This reads on the limitation

correcting the first image based on the photographing condition information of the first image. Rybczynski further teaches producing a final composite image KB2 such that image is of a natural pictorial appearance (col. 10, lines 30+). Therefore, the rejection of claims 1, 24 and 47 are maintained.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5, 8, 9, 11, 24-26, 28, 31, 32, 34, and 47 are rejected under 35 U.S.C. 102(e) as being anticipated by Rybczynski (US 6,348,953).

Regarding Claim 1, Rybczynski teaches a first input means and a third input means (col. 6, lines 57+), a second input means (col. 9, lines 38+), correcting means (R19), and synthesizing means (KB2).

Regarding Claim 2, Rybczynski teaches the synthesizing means synthesizes the first image and the second image (as shown in fig. 2), and correcting means corrects the first image synthesized by the synthesizing means based on the photographing condition information of the first image (col. 9, lines 38+; photographing condition is interpreted as the chromatic influence of the image).

Regarding Claim 3, Rybczynski teaches the first input means inputs the first image. It is inherent that the input image is photographed using a means for taking a picture, such as a camera, for storage and processing as taught by Rybczynski, and therefore, official notice is taken for this fact.

Regarding Claim 5, Rybczynski teaches the first input means inputs the first image via communication means (fig. 2 shows the communication means is the connection from the storage 1 to the selection unit R5).

Regarding Claim 8, Rybczynski teaches a display (48), for displaying the first and second images, wherein the synthesizing means uses the display mean to perform synthesizing.

Regarding Claim 9, Rybczynski teaches the object in the foreground is depicted with a monochrome background (blue screen). The object is then transferred for synthesizing with the second image without the remainder of the foreground image (col. 6, lines 53+). This teaches that an extracting means is present for extracting the object image from the first image.

Regarding Claim 11, Rybczynski teaches manually correcting the first image (col. 9, lines 55+).

Claim 24 is analyzed and discussed with respect to Claim 1. (See rejection of Claim 1 above.)

Claim 25 is analyzed and discussed with respect to Claim 2. (See rejection of Claim 2 above.)

Claim 26 is analyzed and discussed with respect to Claim 3. (See rejection of Claim 3 above.)

Claim 28 is analyzed and discussed with respect to Claim 5. (See rejection of Claim 5 above.)

Claim 31 is analyzed and discussed with respect to Claim 8. (See rejection of Claim 8 above.)

Claim 32 is analyzed and discussed with respect to Claim 9. (See rejection of Claim 9 above.)

Claim 34 is analyzed and discussed with respect to Claim 11. (See rejection of Claim 11 above.)

Claim 47 is analyzed and discussed with respect to Claim 1. (See rejection of Claim 1 above.)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 4 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rybczynski and Akasawa et al. (US 6,483,540).

Regarding Claim 4, Rybczynski teaches the first input means inputs the first image from storage 1. Rybczynski further teaches that processing may be performed using a computer system (col.14, lines3+). One having ordinary skill would recognize that an attachable/detachable recording medium may be used for inputting images for further correction and processing. Akasawa et al teaches that it is notoriously well known in the art to use a detachable recording medium for inputting images (col. 19, lines 51+). Therefore, it would have been obvious to one having ordinary skill in the art to modify Rybczynski for using attachable/detachable recording medium, as taught by Akasawa et al, as an alternate method of inputting images.

Claim 27 is analyzed and discussed with respect to Claim 4. (See rejection of Claim 4 above.)

Allowable Subject Matter

2. Claims 6, 7, 10, 12, 13, 14, 29, 30, 33, 35-37, and 49-60 are allowed.

Regarding Claim 6, the prior art neither teaches nor fairly suggests a first, second and third input means, a correcting means, and a synthesizing means, wherein the correcting means corrects the first image based on the photographing condition information of the first image and the second image, and the synthesizing means synthesizes the first image corrected by the correcting means and the second image, and wherein **the correcting means corrects gradation and hue of the first image** as claimed in Claim 6.

Regarding Claim 7, the prior art neither teaches nor fairly suggests a first, second and third input means, a correcting means, and a synthesizing means, wherein the correcting means corrects the first image based on the photographing condition information of the first image and the second image, and the synthesizing means synthesizes the first image corrected by the correcting means and the second image, further **comprising adjusting means for adjusting position and size of the first image to synthesize the adjusted first image,** as claimed in Claim 7.

Regarding Claim 10, the prior art neither teaches nor fairly suggests a first, second and third input means, a correcting means, and a synthesizing means, wherein the correcting means corrects the first image based on the photographing condition information of the first image and the second image, and the synthesizing means synthesizes the first image corrected by the correcting means and the second image, wherein **the photographing condition information of the first image includes one of an exposure amount and a shutter speed, and a focus amount, a photographing magnification, a lighting light type, and an eye direction**, as claimed in Claim 10.

Regarding Claim 12, the prior art neither teaches nor fairly suggests a first, second and third input means, a correcting means, and a synthesizing means, wherein the correcting means corrects the first image based on the photographing condition information of the first image and the second image, and the synthesizing means synthesizes the first image corrected by the correcting means and the second image, wherein **the synthesizing means uses auxiliary data concerning shape and**

position of the first image to synthesize the first image and the second image, as claimed in Claim 12.

Regarding Claim 14, the prior art neither teaches nor fairly suggests a first, second and third input means, a correcting means, and a synthesizing means, wherein the correcting means corrects the first image based on the photographing condition information of the first image and the second image, and the synthesizing means synthesizes the first image corrected by the correcting means and the second image, wherein **the correcting means corrects gradation and hue of the second image,** as claimed in Claim 14.

Claims 29, 30, 33, 35-37, 49-52, 54-58 and 60 are substantially similar to Claims discussed above.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline Wilson whose telephone number is (703) 308-5080. The examiner can normally be reached on 8:30am-5:00pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JBW
03/07/05

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